

+ W.P.(C) 5273/2007

August 16, 2007

ASEEM AGARWAL Petitioners
Through Mr. Ajit Kumar, Ms. Nitika Sharma, Advocates

versus

UOI & ORS. Respondents
Through Mr. Amit Bansal, Ms. Manisha Singh, Advocates
for R-2/CBSE.
Mr. Sewa Ram, Mr. R.K. Bachchan, Advocates for R-1 and 3.

CORAM:**Mr. Justice S. Ravindra Bhat**

1. Whether reporters of local papers may be allowed to see the judgment.?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Mr. Justice S. Ravindra Bhat (Open Court)

1. Issue Rule. Mr. Amit Bansal, learned counsel waives notice of Rule on behalf of respondent No.2 and Mr. Sewa Ram, learned counsel waives notice on Rule on behalf of Respondents 1 and 3. With consent, the petition was heard finally.
2. The petitioner claims a direction to the respondents to grant him admission in a Medical college in India in a participating units in the All India PMT, in a Central

Government/State Government Institution the All India quota.

3. The undisputed facts are that the petitioner qualified in the equivalent of the 10+2 examination. He is not an Indian national but has been registered as Overseas citizen of India under Section 7-A of the Citizenship Act, 1955. He was permitted to participate in the common entrance test held by the Central Board of Secondary Education/CBSE. His grievance is that after he was permitted to so participate and after declaration of his result—he having obtained a high ranking of 1643. The respondents prevented him from further participating in the counselling process. It is claimed that the petitioner's name was not forwarded to the DGHS, entrusted in terms of scheme to counsel. The did not recommend his name for admission to any institution.

4. Learned counsel for the petitioner relied upon the provisions of Section 7-A and 7-B and submitted that there is no prohibition placed by any statutory provision, inhibiting registered overseas citizens from claiming benefits available to other citizens in Government and Government aided institutions. Learned counsel also placed reliance on a notification dated 11.4.2005 (S.O. 542 (E)) where the Central Government had inter alia stated as follows:

“ The Central Government has specified (vide S.O.542 (E), dated 11th April, 2005) the following rights to which the persons registered as Overseas Citizens of India under Section 7A of the Act shall be entitled, namely :-

(a) grant of multiple entry lifelong visa for visiting India for any purpose;

(b) exemption from registration with Foreign Regional Registration Officer or Foreign Registration Officer for any length of stay in India; and

(c) parity with Non-Resident Indians in respect of all facilities available to them in economic, financial and educational fields except

in matters relating to the acquisition of agricultural or plantation properties.”

5. Learned counsel for the CBSE submitted that on 5.12.2006 the petitioner was informed that according to its interpretation of Rule 8(i) of the Information Bulletin and Application Form for AIPMT-2007 he was ineligible, being an overseas citizen. Learned counsel contended that by inadvertence the petitioner was issued a roll number and thus he appeared in the examination. This, it was contended did not confer any benefit which was otherwise admissible.

6. Mr. Sewa Ram, learned counsel for the Union of India submitted that the understanding of the Central Government was that overseas citizens were dis-entitled to the benefits of admission in Central Government/State Government or Government aided institutions having regard to the subsidised nature of such facilities. He, however, stated that this issue was engaging the attention of the Central Government and the Committee Secretaries in principle decided to extend the facilities to overseas citizens in terms of Section 7-B read with S.O. 540 (B). It was also contended that there is no prohibition under Section 7-B. Learned counsel contended that in view of the high ranking i.e. 1643 obtained by the petitioner and also taking into consideration the fact, that second counselling has been completed, the most appropriate course at this stage would be that his name should be considered as per merit/ranking, before surrendering the left over seats to the State Government in case any vacancy exists. Learned counsel made these submissions on the basis of instructions and subject to issuance of a notification.

7. In view of the above statement made on behalf of respondents 1 and 3, I am of the opinion that this Court should refrain from expressing any opinion as to the eligibility or

otherwise of overseas citizens, in respect of the admission processes, to State/State aided educational institutions in India. The most appropriate course, therefore, would be to require the said respondents to consider the petitioner's case in accordance with the merit/ranking obtained by him, in the event of any vacancy being available on or before the cut off date before surrendering medical seats to the State for being filled up. Ordered accordingly.

8. The petition is disposed off in the above terms.

Order Dasti.

S. RAVINDRA BHAT,J

AUGUST 16, 2007
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